

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6762 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
SM PARMAR

Versus

STATE OF GUJARAT

-----  
Appearance:

None present for Petitioners

MR HL JANI for Respondents No. 1, 2, 3

-----  
CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/12/97

ORAL JUDGEMENT

1. The matter was called out for hearing in the first round in first sitting then in the second round and third round in second sitting but none put appearance for the petitioners. Perused the special civil application and heard the learned counsel for the respondents.

2. Prayer has been made by the petitioners for quashing and setting aside of the order annexure 'E'

dated 5th August, 1985 and for further direction to the respondents No. 2 and 3 to pay the special pay to them and the members of the petitioner - Union as per the order annexure 'B' dated 9th July, 1985.

3. This petition has been filed by the Scheduled Castes and Scheduled Tribes Government Press Employees' Union, Gandhinagar. During the months of June, July and August, 1985, the State Government employees had proceeded on strike for pressing their demand for removal of roster system. So the strike was against the reservation in the services given to the scheduled castes and scheduled tribes. The Government has taken a decision on 9th July, 1985 for giving of 10% special pay to the employees holding additional charge of the higher posts in the Government Press and who did not joined the strike. In pursuance of the said order, 118 employees including the members of the petitioner-Union were given the additional charges of various higher posts for discharging their duties in place of the employees who had gone on strike and remained absent during the period from 9-7-1985 to 18-8-1985. Certain clarifications have been made to the aforesaid resolution. I find from the averments made in the special civil application that 10% charge allowance was given in addition to the regular double pay. However, under the order dated 5th August, 1985, 10% allowance as declared under the resolution dated 28th June, 1985 has been cancelled. Hence, this special civil application.

4. The petitioners belong to the class which in fact was opposing the strike i.e. the anti-reservation movement. The members of the petitioner-Union in fact were there to see that the strike is frustrated or is failed. They were in support of the reservation and they cannot be said to be persons who had willingly and without any cause worked during the strike period. They had discharged their duties as it was in their favour and as such they cannot be said to be the persons belonging to that category i.e. who have gone on strike for the cause against the reservation. I have taken a view in another matter dealing with the question of giving of double salary to those employee who had not participated in the strike and while dealing with the issue raised on behalf of the persons belonging to the scheduled castes and scheduled tribes, it has been held that those class of persons are not entitled for the benefit of double salary. Here is a case where the petitioners wanted to get in addition of double pay further 10% of allowance as special pay. The claim of petitioners for reasons and grounds aforesaid does not stand to merits.

5. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated.

\*\*\*\*\*

zgs/-